IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No. 09/855,142

Confirmation No. 1124

Applicant: Lincoln et al.

Filed: May 14, 2001

TC/AU: 2445

Examiner: Azizul W. Choudhury

Docket No.: 211202 (Client Reference No. P000024-US-NP)

Customer No.: 23460

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

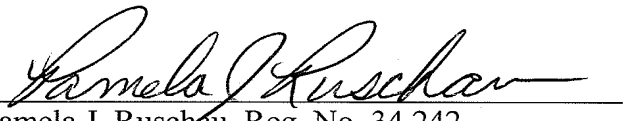
Dear Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the following sheets.

Respectfully submitted,



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Date: November 11, 2010

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Status of Claims

Claims 6, 8, 9 and 10 are pending in this application and stand rejected. The final rejection of the claims is the subject of this review.

Summary of Claimed Subject Matter

Claim 6 defines a method of responding to an information request from a client device, the method including the steps of: receiving the information request from the client device; wrapping the information request in at least one layer to produce a request object; and transmitting the request object over a distributed network comprising a plurality of processing nodes; particularized analyses, routing layer addition and processing are performed at the processing nodes, and the request object is transmitted back to the client. More particularly, at a first of said processing nodes, (1) analysis of the information request stored on the request object is performed to determine whether the first processing node is able to process the information request and generate at least part of a response data which is responsive to said information request, and (2) a routing layer is added to the request object containing routing information relating to a next stage in processing of the request object whilst leaving said at least one layer of the request object intact and undisturbed; the first processing node determines the routing information contained in the routing layer in dependence upon only the request object content. At a second of said processing nodes, analysis of the information request stored on the request object is performed to determine whether said second processing node is able to process the information request and generate at least part of the response data which is responsive to said information request. At least one of said first and second processing nodes processes the information request in the request object and generates at least part of the response data which is responsive to said information request and adds said response data to said request object. The request object, including said response data and the information request, for responding to the information request is transmitted back to the client device via the distributed network the request object.

Claim 8 depends from and includes all the limitations of claim 6, further adding the limitation wherein the layers of the data object further include at least one layer selected from

a group containing client device information, user identification information, and application identification information.

Claim 9 is directed to a system for performing the method of claim 6, and reflects the same structure set forth in claim 6. Claim 10 depends from and includes all of the limitations of claim 9 and the structure set forth in claim 8.

Grounds of Rejection to be Reviewed

Applicants request review of the grounds for rejecting claims 6 and 9 under 35 U.S. C. §102(b) as anticipated by and claims 8 and 10 under 35 U.S. C. §103(a) as obvious over Reed, Michael G. *et al.*, "Proxies for Anonymous Routing" ("the Reed reference"), as well as the "Official Notice" of the conclusion of obviousness.

Reasons for Withdrawal of Rejection

In short, the Office Action misinterprets the Reed reference, and applies an incorrect standard for obviousness. The Office Action rejected claims 6 and 9 under 35 U.S. C. §102(b) as anticipated by and claims 8 and 10 under 35 U.S. C. §103(a) as obvious over the Reed reference. The Reed reference simply does not disclose or teach a number of the steps or elements of claims 6 and 9. Accordingly, Applicants submit that all pending claims are neither anticipated nor rendered obvious by the cited art.

Two independent claims are pending in this application, claim 6 being directed to a method and claim 9 being directed to a system reflecting the same structure set forth in claim 6. Accordingly, while Applicants comments below are addressed to claim 6, it is submitted that the comments are equally applied to claim 9. In the interests of brevity, however, the following discussion does not reference claim 9 throughout.

Claim 6 includes the following step:

> at a first of said processing nodes, performing analysis of the information request stored on the request object to determine whether the first processing node is able to process the information request and generate at least part of a response data which is responsive to said information request, and adding a routing layer to the request object containing routing information relating to a next stage in processing of the request object whilst leaving said at least one

> layer of the request object intact and undisturbed, said first processing node determining the routing information contained in the routing layer in dependence upon only the request object content

The Office Action alleges that the Reed reference discloses the elements of this step, asserting that "Reed teaches how the onion routers handle (process) packets and add layers to rout the packets, section 5.1, Reed." (Office Action, p. 3.) The Examiner further stated in the interview summary that Reed teaches a form of encapsulation of data packets (for the purpose of routing a packet payload). Applicants respectfully disagree. Even if this routing in Reed might be argued to correspond to the method step of "adding a routing layer," however, the passage in the claim requires that it BOTH perform analysis AND add a routing layer. Applicants submit that the same routing task in Reed cannot simultaneously satisfy the analysis step and the routing step.

Furthermore, the substeps of the analysis step in the identified passage of claim 6 have no analogous counterparts in the Reed reference. For example, the Reed reference appears not to even suggest or appreciate the need for a substep of determining ability of the node to process inasmuch as Reed relates to routing and routing alone. Moreover, there is no obvious analog for the substep of determining ability of the node to generate at least a part of a response data; Applicants note with regard to the Reed reference that there is no need to determine whether a node is able to generate a response if there is nothing that can be considered to constitute a response. Applicants unsuccessfully requested further clarification regarding these unaddressed substeps of the analysis step in the identified passage. At a minimum, the examiner should be made to address these shortcomings of the rejections.

A second important difference between the Reed reference and the claimed method lies in the nature of the result of the operation of the method in the independent claims - a request goes out to a number of different nodes in response to which at least one of the nodes processes the request and generates response data in the request object. Claim 6 requires:

> transmitting the request object over a distributed network comprising a plurality of processing nodes;
>
> at a first of said processing nodes, performing analysis of the information request stored on the request object to determine whether the first processing node is able to process the information request and generate at least part of a response data which is responsive to said information request

This is called variously an "asynchronous request" and a "request which may not be satisfied within a single session or by a single information provider" in the specification of the pending application. As explained in the specification, in one exemplary embodiment, Applicants could use XML to generate a structured form for encapsulating information from different sources. The Reed reference does not have this result "in scope" – rather, it is concerned with the minutiae of ensuring that a data payload is delivered securely. In the Reed reference, the connections between nodes are anonymised, replacing TCP/IP socket connections. To stretch the teachings of Reed by analogy so that a basic routing technique covers the handling of "asynchronous requests" would be merely hindsight reconstruction in view of the teachings of the present application.

Accordingly, for at least the reasons set forth above, it is respectfully submitted that the Reed reference does not anticipate claims 6 or 9. Nor does the Reed reference render obvious claims 6 or 9 as further explained above. Inasmuch as the Reed reference does not satisfy or render obvious the limitations of claims 6 and 9, from which claims 8 and 10 depend, respectively. Accordingly, the rejections of claims 8 and 10 must likewise fall. One of skill in the art simply would not attempt to provide the system as set forth in the pending claims and disclosed in the pending application knowing what is available to him from Reed.

Finally, insofar as the Office Action takes "*Official notice [] that [it] would have been obvious to one skilled in the art*, to have client-specific information such as device and user information, to enable for the proper identification, routing and processing packets" (emphasis added), Applicants submit that it is permissible to take official notice only "where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionably demonstration as being well-known." (M.P.E.P. § 2144.03A.) As such it is not proper to take official notice of obviousness. Accordingly, Applicants request reversal of the rejection or evidentiary support for the same.

Applicants respectfully submit that independent claim 6 (directed to a method of responding to an information request) and independent claim 9 (directed to a system for responding to an information request), as well as dependent claims 8 and 10 depending therefrom, are patentable over the cited references.